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LETTER



# THE PAY EQUITY COMMISSION



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## Pay Equity in Your Workplace: Communicating the Process

Leading in anything requires work. Ushering in a new employment practice means issues have to be defined, and concepts moulded and adapted to fit the individual environment. Where pay equity is concerned, the rewards equal the effort, because you will help to shape the workplace of the future in Ontario, initially, and beyond as other jurisdictions follow suit.

You will also help to shape your own organization, which means you will earn a reputation for being fair. For employers, this reputation will become increasingly important, because the labour market is shrinking and you must be able to attract, compete for and, ultimately, retain skilled employees.

### An Informal Survey of Pay Equity Progress

This summer, the Pay Equity Office mailed an informal survey to the chief executive officers of those firms that have 500 or more employees in Ontario (some 700 were identified). About one third of these companies that must prepare and post their pay equity plans by January 1, 1990 replied.

About one fifth of the respondents said they were intending to post early. However, the majority had only reached the point where they had selected a gender-neutral job comparison system, and only a handful had actually begun to define job classes and compare them, even though the deadline is only a few months away.

If your organization is among the majority of companies that are behind in the process (or even if your company is scheduled to post at a later date), be aware that pay equity is time consuming, that the legislated deadline will not be extended and, perhaps most importantly, that you may need to allocate more resources to achieving pay equity.

### Designating Resources to Communication

If you haven't already done so, you should designate some of your resources to communicating pay equity in your workplace. It is to your advantage to show leadership not only in achieving pay equity but also in communicating the process.

The goodwill will surely be immediate and apparent because employees will know what is actually going on. If, however, workers feel pay equity is a well-kept secret or there is little or no communication because pay equity is not given the attention it deserves, the pay equity plan may be misunderstood and, consequently, rejected. Keep in mind, the ill will and possible suspicion arising from ignorance about the pay equity process can be around a lot longer than any document or plan.

You can greatly reduce, if not eliminate entirely, the risk of negative developments if you communicate pay equity to your employees.

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## Design a Communications Plan to Anticipate Problems

Pay equity touches on two highly sensitive areas: one is an individual's salary and the other is the individual's sense of worth on the job. Emotions as well as expectations can quite naturally run high. Don't wait for a concern to blossom into a contentious issue – try to anticipate quarrelsome areas.

To do this, you must design a clear, comprehensive communications plan. The plan should demystify and open up the pay equity process, involve employees, deal with employee fears, concerns and expectations, and demonstrate your commitment to doing pay equity well and on time.

Every organization is different, and what works in one place may not work in another. However, as different as communication plans can be, there are fundamental principles which should be constant where pay equity is concerned.

## Begin with Dialogue

Communications plans that deal with the complex issue of pay equity must have a solid foundation in dialogue – messages that come from management to employees, then return; from bargaining agents to union members and back again. It goes without saying that the dialogue must be genuine. Employees must feel that their messages are being considered seriously; otherwise, you will earn their distrust instead.

When the dialogue is genuine, employees will trust the pay equity process in your workplace because they will feel they are a part of it. Implementation, as a result, will likely go more smoothly, which means fewer complaints for employers and less misunderstanding for bargaining agents.

Pay equity dialogue in your organization should have already

begun. If it hasn't, begin as soon as possible and remember to extend it to after the posting period. This time is especially critical in non-union workplaces: if employees feel their inquiries have not been answered or dealt with adequately; they have the right under the Act to object to their pay equity plan.

## Know What to Communicate

Once you have decided to formalize your communications strategies into a plan, ask yourself what do you want to communicate. The following are suggestions to help you get started:

- ▶ Begin by telling employees that your organization is concerned with fairness for all employees, that you are committed to making sure that female-dominated jobs are paid fairly, and that you are committed to the intent of the Act and intend to comply fully.
- ▶ Explain what pay equity is and, equally important, what it is not. Confusion still exists over the difference between pay equity and equal pay for equal work, and between pay equity and employment equity.
- ▶ Spell out what the legislation can and cannot do, and who is affected and who is not. Male workers, especially, may fear adverse affects of the legislation and these fears will need to be allayed. For example, some male workers may (wrongly) believe that their compensation can be decreased to achieve pay equity.
- ▶ Explain the pay equity process: what is a job class, what is a job comparison system, under what circumstances are comparisons allowed to take place, how are job rates adjusted, what is included in the one percent payroll payout, and so on.
- ▶ Outline step by step how you are going to implement the wage adjustments. You don't want

employees to feel surprised by either the size or the timing of their wage adjustments. You may even want to publish a timeline of adjustments. If you do, stick to it; if you don't, explain why.

- ▶ Describe clearly what are the avenues for employee feedback, involvement and complaints. And give credit where credit is due: promote the fact that you are advocating dialogue.

## Decide Who Is the Message Sender

Give serious thought as to who is sending the message. Experience has shown that the initial message should come from the top, not only to demonstrate the organization's commitment to pay equity but also to give it some authority. Subsequent messages can come from your front-line people: the bargaining committee, human resources staff, union stewards, department heads, supervisors and so on. If the workplace is unionized, you may want to consider joint communications.

Early studies of focus groups of working women in Ontario have revealed that these women expect to hear from their employers about pay equity, from their union if they belong to one and from the Pay Equity Commission.

The responsibility of communicating pay equity is seen to be a shared one. For employers, bargaining agents and the Commission, this means each is obliged to play a role in educating and informing working people about pay equity. If you haven't already done so, begin your part today.

# New Tribunal Members

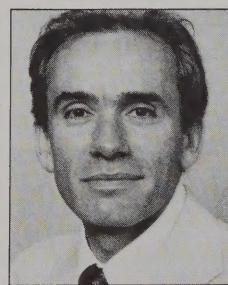
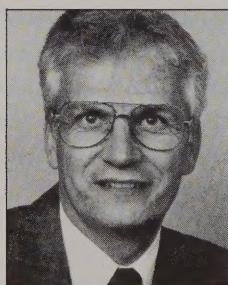
The Pay Equity Hearings Tribunal, which is independent of the Pay Equity Office, makes final decisions of fact and law on matters before it that arise under the Pay Equity Act. Members newly appointed to the Tribunal are:



**Patricia Hughes**, who joins the Tribunal as its alternate chair, is an experienced adjudicator and legal scholar. Most recently, she was a vice chair at the Ontario Labour Relations Board. As counsel to the Ministry of the Attorney General, she focused her efforts on charter issues and pay equity policy. She has a doctorate in political theory and has taught at the university level. She has published extensively and is frequently invited to lecture to professional, academic and community groups.

**Mary Ellen Cummings**, as a vice chair, brings extensive labour law experience to the Tribunal. Her practice in management labour law has included collective bargaining, arbitration and educating clients toward a co-ordinated approach to good labour relations. She has developed an expertise in pay equity, having negotiated pay equity plans, and lectured and written on the subject. Her community work has included sitting on a board of directors of a day care, involvement with an association for the handicapped and previous work in legal aid.

**Janet Sloane Taylor** brings an extensive background in human resources to the Tribunal as a member representing employers. For several years, she has been a consultant in labour relations, employment equity, management training and pay equity communications. She has frequently served as management nominee in both rights and interest arbitrations. She has developed an expertise in the health sector and has significant first-hand experience in hospital management and administration.



**Bruce Budd** joins the Tribunal as a member representing employees. Most recently, he was an employment standards officer with the Ontario Ministry of Labour. He has been active in OPSEU, as a member and on staff, as director of finance. He also has a work background in the financial sector. He is currently treasurer of the Labour Council Development Foundation and, over the years, has been active in several community and consumer organizations. He is fluently bilingual.

**Peter Gallus** has recently been appointed Registrar of the Tribunal, bringing to the position extensive knowledge of and experience in the labour relations community. He has worked for the Ontario Labour Relations Board where he was involved in mediating a variety of disputes arising under the Labour Relations Act. He also has more than 10 years experience as a union representative that includes negotiating collective agreements, grievance management and arbitration, and labour board representation.

# Case Summaries of

The following case summaries have been selected and prepared by the Solicitor's Office of the Pay Equity Hearings Tribunal. The Tribunal will produce a publication, entitled *Pay Equity Reports*, as cases warrant, starting in late fall of 1989. For more information or distribution of individual decisions, please direct inquiries to the Tribunal's Registrar at (416) 481-4276 or 1-800-668-3946.

**Ontario Nurses Association, Applicant**

**Regional Municipality of Haldimand-Norfolk, Respondent**

**Haldimand-Norfolk Regional Board of Commissioners of Police, Other Party**

Summary of the Majority Decision of the Tribunal, June 30, 1989 0001-89

## **Interpretation – Purpose of Act – Discrimination – Employer – Establishment**

The issue before the Tribunal was whether the Regional Municipality of Haldimand-Norfolk is the employer of the Haldimand-Norfolk Regional Police such that the police are part of the Regional Municipality's establishment.

The Act is a statute having the specific purpose of redressing systemic wage discrimination with elements of both human rights and labour relations. As the Act does not define "employer", the test adopted by the tribunal must utilize criteria that best accord with the objectives, structure and scheme of the Act. The Tribunal finds that a flexible approach as adopted by the Ontario Labour Relations Board is useful particularly in the early interpretation of a new statute. No one indicium will be determinative; each must be considered and assessed on the facts of each case. The factors to be examined, while not all encompassing, include: who has overall financial responsibility; who has responsibility for compensation practices; what is the nature of the business, service or enterprise; and what is most consistent with achieving the purpose of the Act.

In applying these criteria, the Tribunal found on balance that the Regional Municipality was the employer of the police. Therefore, pursuant to the definition of establishment in subsection 1(l), the police are part of the Regional Municipality's establishment.

Summary of the Dissent, June 30, 1989 0001-89

There is insufficient evidence to justify the majority decision in the application of the first three criteria. Furthermore, the Applicant did not establish that the purposes of the Act could not be achieved with the police excluded from the establishment of the Regional Municipality.

# Two Tribunal Decisions

Tribunal decisions will be available on the QL database, a legal reporting data base system.

Those interested should contact:

**QL Systems Limited**

411 Richmond Street East, Suite 101

Toronto, Ontario M5A 3S5

(416) 862-7656 or 1-800-387-0899

**Ontario Public Service Employees Union, Applicant**  
**Cybermedix Health Services Ltd., Respondent**

Summary of the Decision of the Tribunal, July 6, 1989 0003-89

### **Bargaining – Bad Faith – Disclosure**

The Applicant alleged that the Respondent had failed to negotiate pay equity in good faith by failing to disclose certain information requested during bargaining. The Tribunal considered:

- 1)what information was the employer required to disclose, and
- 2)when in the bargaining process was it obliged to release information.

The parties are jointly responsible for the process and the content of the pay equity negotiations. In order to meet these obligations, information relevant to pay equity issues must be disclosed so that rational and informed discussions may occur. Unlike collective bargaining, the Act sets out the issues to be bargained: the gender neutral job comparison system, and the component parts of the pay equity plan. Disclosure must be made whenever the parties cannot agree to an issue without the information requested. Both parties are entitled to sufficient information to make informed choices at all stages of the process.

In this case, there are no male comparators within the bargaining unit; therefore, the union is entitled to information relating to classes outside the bargaining unit, including: job titles; gender compositions of positions; compensation schedules, salary grades or range of salary rates per position; and job descriptions. No justification for disclosure of the names of employees outside the bargaining unit was established.

### **Evidence – PEHT – Hearing – Procedure**

An issue arose as to the nature of proceedings before the Tribunal.

A proceeding before the Tribunal is not an appeal, but rather is a hearing *de novo* on the issues in dispute. Evidence on those issues must be called at the hearing by the parties and be subject to cross-examination.

# INTRODUCING...

## NEW EDUCATION OFFICERS

*The Commission's Information and Education Services Branch develops and distributes educational materials, conducts workshops and seminars for employers, unions and employees across Ontario, and conducts public awareness campaigns. Recent appointments to the branch are:*

Barbara Donaldson is the community development officer responsible for outreach to working women, primarily in non-union workplaces. Previously, she was the special events co-ordinator for the branch. She has also worked as a social worker and community organizer with the Woodgren Community Centre in Toronto, and served as chair of the Canadian Federation of Students.

Janice Rooney was the benefits and compensation manager and pay equity officer for Cosma International, a large automotive manufacturer, before joining the Commission. She is a generalist in the human resources field. Her specialist roles have included responsibility for the initial education, training, communication and facilitation of pay equity for the 16 autonomous companies within the Cosma group. She is the education officer responsible for outreach to the private sector.

## NEW REVIEW OFFICERS

*The Review Services Branch provides assistance to employers, unions and employees if one or more parties are unable to reach agreement on a pay equity plan or if there has been a contravention of the Act. The following are recent appointees who will be called upon to facilitate, mediate and conciliate:*

Fred Berenbaum comes to the Commission from the Service Employees International Union, Local 777 (Sunnybrook Hospital Unit). He has held elected and staff positions in four other unions, spanning a period of more than 15 years. He has industrial relations experience as a union negotiator, representing rank and file membership in collective bargaining, arbitration proceedings and grievance settlement meetings. He holds an MBA from McGill University, with a concentration in industrial relations.

Barbara Hershorn has an extensive background in industrial relations. She has worked as a human rights officer and was seconded to the Ontario Labour Relations Board for six months. She was also employed by Carleton University where she held various positions, including president of the support staff union. She holds a bachelor's degree in sociology from Carleton and is near completion of a master's degree in industrial relations from Queen's University.

Gerald Lee comes to the Commission from the Occupational Health and Safety Division of the Ministry of Labour where he was involved in investigation and conciliation activities.

Prior to his employment at the ministry, he worked as a union representative in the auto industry during which time he gained extensive experience in industrial relations.

Selwyn McSween was an employee of the Ontario Human Rights Commission before joining Review Services. He has substantial experience in investigation and conciliation. He was educated at the universities of Manitoba and Toronto, and has conducted postgraduate research in economic history at various institutions in the United Kingdom.

Margaret Paczynski comes to the Commission from the Employment Standards Branch of the Ontario Ministry of Labour, where she specialized in equal pay for equal work investigations with the equal pay section. She has experience in compensation, job evaluation and labour standards. She also worked with Canada Health and Welfare in information services. She has a BA from the University of Toronto.

Lianne Sherbaty has spent the last two years as a pay equity consultant in the Chief Administrative Officer's Department of the Municipality of Metropolitan Toronto. She has held managerial positions in Homes for the Aged and Hostels. She has also taught food service management at Ryerson Polytechnical Institute.

# QUESTIONS AND ANSWERS

**Q:** Some employers have different compensation policies for full-time and part-time employees. For example, some employers may pay part-time workers 80% of the salary they pay full-time staff, or they may give some benefits to full-time staff they do not give to part-time workers. These policies raise issues under the Pay Equity Act when part-time female job classes are found to be of equal or comparable value to full-time male job classes.

- (i) Can a part-time position and a full-time position belong to the same job class? If so, under what circumstances?
- (ii) Which job class(es) could be chosen as a comparator to a part-time job class?

**A:** (i) A full-time position and a part-time position can belong to the same job class, provided they have the same compensation schedule (both hourly wage rate and equivalent prorated benefits).

(ii) A male job class of equal or comparable value that is either full-time or part-time could be used as a comparator to a part-time job class. Keep in mind that, when pay equity adjustments are made to equalize job rates, it is the *combination* of the hourly wage rate and benefits that must be equalized.

**Q:** Does the Pay Equity Act require that employees will receive a lump sum adjustment on the January 1 anniversary dates of posting?

**A:** No. The actual job rate will change according to the amount specified by the pay equity plan. The new rate will become a permanent part of the wage structure and will be paid throughout the year.

Lump sum payments may be required when employers are ordered to provide back pay retroactively, due to a contravention of the Act, late posting of a plan or resolution of a complaint after the adjustment date specified in section 13(2)(e).

All questions and answers that appear in each Pay Equity Commission Newsletter are prepared by the Pay Equity Office for guidance and illustration. They are not binding on the Pay Equity Hearings Tribunal in its review of cases or its interpretation of the Pay Equity Act.

## The Commission Updates Its Schedule of College Conferences

DATE	LOCATION	CONTACT	PHONE NUMBER
October 3	Canadore College, North Bay	Barbara Sauro	(705) 474-7600
October 5	Humber College, Toronto	Julie Klinger	(416) 675-3111 / ext. 4418
October 12	Northern College, South Porcupine	Special Programs Department	(705) 235-3211 / ext. 232
October 18	Niagara College, Welland	Joan Warbis	(416) 735-2211
October 25	Conestoga College, Waterloo	Marilyn Lambert	(519) 885-0300
October 31	Cambrian College, Sudbury	Pat Kallio	(705) 566-8101
November 18	Georgian College, Parry Sound	Linda Newton	(705) 746-9222
November 22	Sheridan College, Toronto	Cliff Coburn	(416) 457-7001



## HOW TO REACH THE PAY EQUITY COMMISSION

150 Eglinton Avenue East, 5th Floor  
Toronto, Ontario M4P 1E8

### INFORMATION HOTLINES: ONTARIO-WIDE (TOLL-FREE)

1-800-387-8813

1-800-387-8887

### TORONTO-AREA

481-3314   481-3315

# THE PAY EQUITY COMMISSION



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